

REMARKS

Please note the fact that January 29, 2005, fell on a Saturday ensures that this paper is timely filed as of today, Monday, January 31, 2005 (the next succeeding day which is not a Saturday or Sunday).

Applicants and the undersigned are most grateful for the time and effort accorded the instant application by the Examiner. The Office is respectfully requested to reconsider the rejection present in the outstanding Office Action in light of the following remarks.

The title apparently stands objected to. In order to expedite prosecution, Applicants have amended the title. Thus, it is believe this objection has been obviated.

Claims 1-20 were pending in the instant application at the time of the outstanding Office Action. Of these claims, Claims 1 and 20 are independent claims; the remaining claims are dependent claims. Claims 7, 9 and 13 have rewritten. Applicants intend no change in the scope of the claims by the changes made by these amendments. It should also be noted these amendments are not in acquiescence of the Office's position on allowability of the claims, but merely to expedite prosecution.

Claims 7 and 9 stand objected to for the use of the term "population". As suggested by the Office, these claims have been rewritten to replace this term with – visitors--.

Claims 13 and 14 stand objected to under 35 U.S.C. § 112, second paragraph, "as being complete for omitting essential elements, such omission amounting to a gap between the elements." In order to expedite prosecution, Claim 13 has been rewritten in a manner believed to obviate this objection.

Claims 1-20 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,918,014 to Robinson. Claims 1-20 also stand rejected under 35 U.S.C. § 102(e) as being anticipated by International Patent Appln. No. WO 97/41673 to Gerace. Reconsideration and withdrawal of these rejections is respectfully requested.

The present invention broadly contemplates enabling Internet businesses to conduct real-time, online experiments on a sample of transactions and determine marketplace sensitivities. (Page 7, lines 3-5) Analysis of the results of the experiments reveal optimal values of key market decision variables, such as price, content of banner ads, promotion levels, quantity discount schemes, etc. (Page 6, lines 5-7) The dynamic experimentation used by the inventive system reveals the relative stability (or instability) of the networked market within which the business operates. The translation of an optimal value for a key variable (for example, price) to the entire market can be done on a real-time basis. (Page 6, lines 18-21)

As best understood, Robinson appears to be directed to displaying advertising to users of the World Wide Web based upon what "community" they are in. See Col. 2, lines 23-26 ("If the members of a particular consumer's community tend to click on a particular Web ad, then there is a certain likelihood that the subject consumer will also tend to click on that ad.")

As best understood, Gerace appears to be directed to targeting of an appropriate audience based on the psychographic or behavioral profiles of end users. Using the profile, advertisements are displayed to appropriately selected users. (Abstract)

The instantly claimed invention requires specifically “(a) receiving configuration data from the Internet merchant; (b) randomly sampling visitors to the Internet website according to the configuration data; (c) determining an optimal advertisement using the data acquired in step (b); and (d) thereafter using the optimal advertisement determined in step (c).” Applicants note the Office’s discussion of the applied references highlights that not all of the elements of the present invention are found in the applied art.

By way of non-limiting example, the Office’s discussion of Robinson seems to focus on the so-called random sampling, and does not address the other claim elements, including “receiving configuration data from the Internet merchant.” Similarly, again by way of non-limiting example, the Office’s discussion of Gerace seems to paraphrase portions of the Gerace application without any discussion of how Gerace relates – if at all – to the present invention.

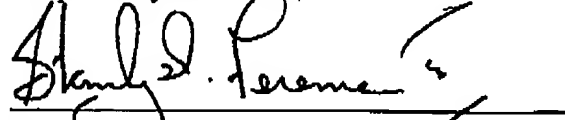
Accordingly, Applicants respectfully submit that the applied art does not anticipate the present invention because, at the very least, “[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under construction.” W.L. Fore & Associates, Inc. v. Garlock, 721 F.2d 1540, 1554 (Fed. Cir. 1983); see also In re Marshall, 198 U.S.P.Q. 344, 346 (C.C.P.A. 1978).

By virtue of dependence from what is believed to be allowable independent Claim 1, it is respectfully submitted that Claims 2-19 are also presently allowable.

The "prior art made of record" has been reviewed. Applicants acknowledge that such prior art was not deemed by the Office to be sufficiently relevant as to have been applied against the claims of the instant application. To the extent that the Office may apply such prior art against the claims in the future, Applicants will be fully prepared to respond thereto.

In summary, it is respectfully submitted that the instant application, including Claims 1-20, is presently in condition for allowance. Notice to the effect is hereby earnestly solicited. If there are any further issues in this application, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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